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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

October 4, 1994

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
Room 814  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Mr. Chairman:

As independent producers of first-run syndicated television programs, we are alarmed at reports that the Commission is about to begin a rulemaking to change or eliminate the Prime Time Access Rule without following the essential initial step of issuing a notice of inquiry in a matter which raises such enormous public policy and public interest issues.

A notice of proposed rulemaking suggests a tentative conclusion that a change needs to be made. Such a presumption should follow a neutral, in-depth study of the subject via a notice of inquiry that would draw substantive comments to give the Commission detailed information it needs before deciding whether to proceed further.

The fact that a few anti-PTAR petitions have been on file at the Commission for several years does not mean that the Commission has conducted a serious and searching examination of how the Rule has worked or of the likely effects on all interested parties--including programming choices for viewers of free, over-the-air television--if the Rule were altered or killed. There is, in fact, no up-to-date, detailed study of the marketplace in which the PTAR operates.

The Rule was created almost 25 years ago to stimulate diversity in programming by opening up one hour of television's prime time on the most-watched stations so that independent producers could offer programs without going through the network filter. In fact, the PTAR gave birth to a whole new industry--first-run production and syndication. There was a handful of independent producers before the Rule. There are HUNDREDS now.

Without the PTAR in its present form, opportunity for independent, first-run producers would disappear, along with thousands of jobs in their companies.

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Yes, the growth of cable systems has created another market for program producers. However, network-owned and affiliated television stations remain, overwhelmingly, the primary buyers of highly produced, quality programming and the most effective avenue for a producer to reach the mass video audience.

Eliminating the off-network portion of the PTAR would create a two-class system of allowing the networks and companies that produce for them to expand their domination of the most desirable marketplace, prime time, while relegating independent producers, especially small, minority and women-owned companies, to second-class marketplaces.

The revised Financial Interest and Syndication Rules allow a network to take an ownership role in programming aired on the network. If the Commission ends the PTAR's ban on the airing of off-network shows on network owned-and-operated stations and network-affiliated stations in the top 50 markets during the Access hour, many of these stations would likely carry those off-network programs in which the parent network holds a financial interest.

Without access to these leading stations in the crucial, top 50 markets, independent producers would find it difficult if not impossible to launch first-run shows in that hour. While many network affiliates below the top 50 markets now carry first-run programs, those first-run programs would not have been available in any size market without the Rule.

If there were any doubt that the networks intend to take over the production market, the newly elected president of Capital Cities/ABC told Variety in the issue of September 21, 1994, that ABC will own almost 40 percent of the prime time schedule this Fall.

We believe the Commission should wait to see the results of the projected ending next Fall of the remaining Financial Interest and Syndication Rules before considering alteration or elimination of the PTAR. This Rule is the last barrier to total vertical integration of the production and distribution industries which supply the programs that a majority of Americans watch.

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If waiting that long is TOO long for the Commission, at least we urge you to proceed carefully, deliberately, traditionally, by starting with a notice of inquiry. If the FCC opens with a notice of proposed rulemaking, that alone will start to close the Access marketplace as network affiliates begin acquiring off-network shows to have them available for when the Rule would officially be changed.

We are independent producers who wish to create and offer first-run programming for Access time. We aspire to the success achieved there by others, thanks to the PTAR which opened--and keeps open--at least that one hour of prime time so that companies, large and small, can compete. Please proceed with great care in considering any change in this Rule. It has allowed us to dream and to pursue our dreams.

Thank you for hearing us.

ACI

All American Television, Inc.

Central City Productions, Inc.

Claster Television Incorporated

Crescent Entertainment, Inc.

Mark Goodson Productions LP

Kushner-Locke Company

Lee Miller Productions

Loreen Arbus Productions, Inc.

Muller Media, Inc.

Ralph Edwards/Stu Billett Productions

S.I. Communications, Inc.

Videoware Corporation

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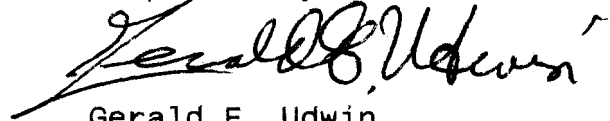
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 10554

Dear Mr. Secretary:

A group of independent producers of first-run television programming, whom I represent, sent the attached letter to Chairman Hundt, to the other four Commissioners, to General Counsel Kennard, Mass Media Chief Stewart, Deputy Chief Licht and Chief Economist Katz regarding the Prime Time Access Rule relating to MM File Numbers 870622A, 900418A and 920117A.

Respectfully submitted,

  
Gerald E. Udwin

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